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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/817,565

04/02/2004

David Peter DeCenzo

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3799

7590

02/07/2007

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EXAMINER

CHU, GABRIEL L.

ART UNIT

PAPER NUMBER

2114

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/817,565	Applicant(s) DECENZO ET AL.	
	Examiner Gabriel L. Chu	Art Unit 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Special Examination Procedures

1. According to MPEP 708.02 VIII (C), under special examining procedure of VIII, "Any amendment which would require broadening the search field will be treated as an improper reply." Further, see MPEP 708.02 VIII, under special examining procedure of VIII, wherein "The examiner's search will be restricted to the subject matter encompassed by the claims."
2. Therefore, **any amendment that broadens the claimed subject matter beyond Examiner's search will be treated as non-responsive.**

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. **Claims 30-34, 36-42, 44-46, 55, 56, 58 rejected under 35 U.S.C. 102(b) as being anticipated by US 2003/0041201 to Rauscher. See previous office action.**
5. **Claims 38, 39, 41, 47-49, 55, 56, 58, 59 rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0139260 to Steinmetz et al. See previous office action.**
6. **Claims 53 rejected under 35 U.S.C. 102(e) as being anticipated by US 20030126315 to Tan et al.**
7. Referring to claim 53, Tan discloses a multiple disc assembly comprising: a storage array; and means for controlling the array by providing multipath redundant

access to storage locations of the array, in further view of Applicant remarks, "multipath redundancy in the I/O communications between an external device and the storage space through a particular controller" (Figures 2, 3.).

8. Claim 54 rejected under 35 U.S.C. 102(b) as being anticipated by US 6304942 to DeKoning.

9. Referring to claim 54, Dekoning discloses a multiple disc assembly comprising a plurality of data storage locations that are accessible to each of a plurality of controllers via circuitry that defines at least two independent signal paths between each location and each controller (Figure 3. Further, from line 18 of column 7, "The embodiments illustrated in FIGS. 1 and 3 include two dual-channel storage arrays with ELB RAID controllers upgraded to 3 dual channel-storage arrays with ELB RAID controllers configured in pass-through mode and coupled behind two enterprise storage controllers. Other configuration upgrades are contemplated in other embodiments of the present invention, including for example a single-channel storage array controller being supplemented by a second single-channel storage array controller behind a higher channel capacity storage controller. Importantly, the pass-through relationships presented by the original controller or controllers facilitate the reconfiguration performed by the enhanced storage array controller by presenting the storage devices in the underlying arrays as a JBOD. The redistribution and remapping of the data in a drive group also provides an upgrade path from an original storage system that lacks channel redundancy to an upgraded storage system that accommodates channel redundancy. Assuming, for example, that the original storage array 108 did not provide channel

redundancy, the volume data can be redistributed and remapped such that enterprise storage controllers 308 and 310 can provide the redundant paths to the data for a particular volume.”).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 35, 43 rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0041201 to Rauscher as applied to claim 31, 39 above, and further in view of US 6598106 to Grieshaber et al. See previous office action.**

12. **Claims 50-52, 57 rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0139260 to Steinmetz et al. as applied to claim 49 above, in further view of US 5898828 to Pignolet et al. See previous office action.**

Response to Arguments

13. Applicant's arguments filed 16 January 2007 have been fully considered but they are not persuasive.

14. Regarding Applicant's arguments concerning the terms “common enclosure” and “switchable fabric” (pages 15-21, 23, 24), Applicant appears to take issue with Examiner's interpretation of the claims, arguing the references do not “identically

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disclose" the claimed elements and furthermore, that the interpretation is unreasonably broad because it ignores the "plain meaning" of the art. Even if there were such a thing as commonly understood "plain meaning", Applicant, by acting as his own lexicographer has foregone any such benefit (see Applicant's specification). Examiner's interpretation, further, is based on such "plain meaning" (see any dictionary) and applicant's own specification.

Applicant appears to be arguing from Applicant's own accepted (but not definitively limited) meaning of the terms. However, this is not the bar that Examiner must meet.

Applicant further argues "configuring" the fabric, but once again, Applicant has not provided a limiting definition, but only something that "may" apply (see Applicant's liberal use of the words "may" and "not limited" throughout the specification).

15. Regarding Applicant's argument (pages 21, 22, 24-26) that claim 53 has invoked 35 USC 112 sixth paragraph, this is true. As such, to the extent that functionality was claimed, Examiner had provided the exact **or equivalent** means. As Applicant has subsequently changed the scope of such interpretation, Examiner has provided a subsequent rejection based on different grounds.

16. Regarding Applicant's argument (page 22, 23 26) that the references do not teach claim 54 as amended, a subsequent rejection has been provided based on different grounds.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

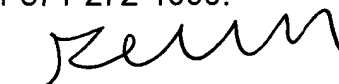
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel L. Chu whose telephone number is (571) 272-3656. The examiner can normally be reached on weekdays between 8:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gabriel L. Chu
Primary Examiner
Art Unit 2114

gc